

Planning for the Transfer of Ownership Succession of Family Farms and Businesses

Tennessee Farmland Legacy Conference
**“Today’s Farms for Tomorrow’s Families and
Communities”**



**Business Ownership Succession for
Family Farms and Family Businesses**

**Tennessee Farmland Legacy
Conference**

October 9, 2008



Farm Family Ownership Succession: Who is the Next Generation of Family Farm Producers in Tennessee?

The “Family Issues” for Farm Business Ownership Succession



Farm Family Business Ownership Succession Planning

**“You Can Buy the Family Farm But
Remember That I Still Own It”**



**Who will end up owning the
family farm?**



Farm Family Business Ownership Succession

Who really owns the family farm??

Mine? His? Ours? Family?



**Who will be the next
generation of family farmers ?**

**This is one of the greatest challenges
now facing agriculture.**



Business Ownership Succession Issues for Farm Families

Who will take over and carry forward what the grandparents and/or parents have built and accomplished?



**“You Can Buy the Family Farm But
Remember That I Still Own It”**

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Communities”**



“I just got milk production up, so don’t hang around the barn and scare the herd!”



SOMEDAY, SON, THIS WILL
ALL BE YOURS.

YOUR ESTATE?

MY RECLINER.

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WISE/ALDRICH





Business Ownership Succession Issues for Farm Families

**“You Can Buy the Family Farm But
Just Remember That I Still Own It”**



Business Ownership Succession Issues for Farm Families

**When transferring the ownership of a family
farming operation to the next generation
(especially if the farm has been in the same
family name for several generations), this entire
succession process itself will result in a lot of
emotional stress among all the family members
involved.**



Business Ownership Succession Issues for Farm Families

There are **many issues** which confront family members in working through this transition in a reasonable and expedient manner without disturbing the daily operation of the farming business.



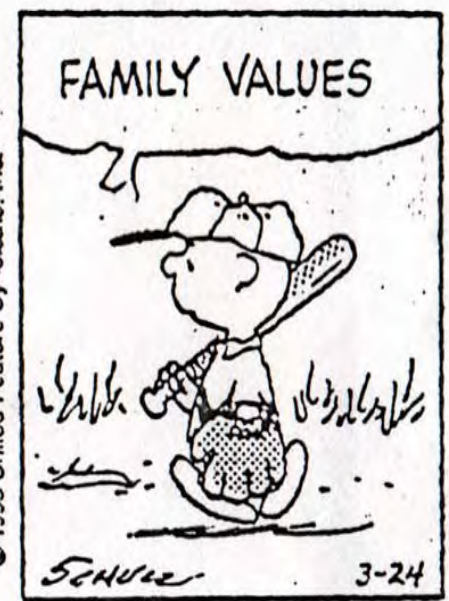
Business Ownership Succession Issues for Farm Families

These **succession issues** must eventually be discussed by **ALL** the family members involved and then **RESOLVED to everyone's agreement** to allow for a successful transition of farm ownership to this next generation of farm producers.

PEANUTS - BY CHARLES SCHULZ



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Planning for the Ownership Succession and Transfer of Management

**What are the Family Issues When
Transferring Ownership of a
Family Farm or a Family
Business??**

Business Ownership Succession Issues for Farm Families

- ❖ The Role of the Father Issue
- ❖ The Issue of “Who is Family”
- ❖ The Issue of Controlling Parents
- ❖ Transfer of Ownership Issue
- ❖ The Issue of the Non-Farming Children
- ❖ The Issue of a Fair Selling Price for the Farm
- ❖ The Issue of Salary or Wages for the Adult Farming Children

Business Ownership Succession Issues for Farm Families

- ✓ The Role of the Father Issue**
- ✓ The Issue of “Who is Family”**
- ✓ The Issue of Controlling Parents**
- ✓ Transfer of Ownership Issues**
- ✓ The Issue of the Non-Farming Children**
- ✓ The Issue of a Fair Selling Price**
- ✓ The Issue of Salary or Wages for the
Adult Farming Children**



**“You Can Buy the Family Farm But
Just Remember That I Still Own It”**

The Role of the Father Issue



The Role of the Father Issue

**Remember that Dad is wearing
two hats in a family farm
operation (i.e. BOSS Hat & DAD
Hat).**



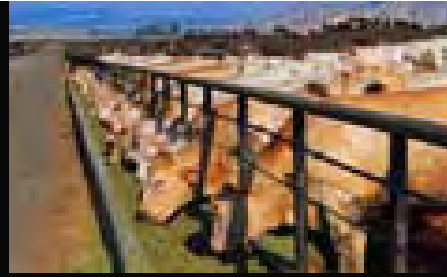
The Role of the Father Issue

- When wearing the **BOSS Hat**, Dad is in charge (authoritative power) and supervises the adult children as employees in the farming operation.
- When wearing the **DAD Hat**, now the father is understanding and takes time to listen to the concerns of his children.



The Role of the Father Issue

Key Point to Remember:
Dad may even have to change hats several times during the same day.



The Role of the Father Issue

The adult children working on the family farm must make this distinction between the **BOSS** and **DAD** roles that the father plays in the farm business.



The Role of the Father Issue

When things go wrong on the farm or someone makes a big mistake, the father will become upset and may even get angry over the situation. He is wearing the **BOSS HAT**.

➔ He stills loves his adult children (**DAD HAT**), but is disappointed with their work performance in the farming operation.



The Role of the Father Issue

➔ **Helpful Hint:** Dad needs to correct mistakes in a positive manner that builds confidence and a lasting trust in the adult children who are working on the family farm.



The Role of the Father Issue

Dad must be certain to **compliment
that adult child by giving praise**
when they do a good job.



The Role of the Father Issue

If Dad only criticizes while constantly pointing out the mistakes (and never mentioning the accomplishments), **a negative working environment** soon develops between Dad and these adult children on the farm and may lead to even more serious personal problems within the entire family.



The Role of the Father Issue

Many times an adult child will return back to the family farm to begin their start in farming after graduating from college or after working at another job first.

- ✓ Dad has to be careful to treat this farming son or farming daughter as an **ADULT PERSON** capable of making decisions and providing their own ideas.



The Role of the Father Issue

If Dad wears only his **BOSS Hat (i.e. my way or else)**, these adult children may feel that they are only **hired help** with no opportunity for any management input.

- This can quickly damage the effective working relationship between Dad and his adult farming children.



The Role of the Father Issue

With no chance for input and not being recognized for their contributions and efforts, these adult children soon lose interest in the farm itself and have **little motivation** to be successful in the farm business operation.



The Role of the Father Issue

If this actually happens, this might be the final but actual result:

- “When another opportunity comes along, these children might be quick to leave the farm and escape the ‘**BOSS HAT**’ that Dad always wears.”



**What if Mom Should Happen
to Out Live Dad ?**

**What if Mom Should Happen to
Out Live Dad ?**

**What Happens When Mom
Now Takes Over Control
of the Family Farm ??**



What if Mom Out Lives Dad ?
What if Dad dies before retirement
and Mom inherits or takes over
control of the farm ?
Does everything remain exactly the
SAME as before Dad's death ?



What if Mom Out Lives Dad ?

Or does Mom start making the changes she always wanted for the farm but Dad would never allow or even agree to !!



What if Mom Out Lives Dad ?

Would Mom just turn **full control** of the farm to the farming son and/or farming daughter ?

And allow them complete freedom for operating the farm business and making their own decisions or even changes (**with little or no supervision by her**).



What if Mom Out Lives Dad ?

The key to answering this question depends on: “How actively was Mom involved in the farming operation to begin with?”



What if Mom Out Lives Dad ?

“How actively was Mom involved in the farming operation to begin with?

☒ Did she work on the farm with Dad, keep the farm record accounts, pay the farm bills, handle the financial matters with lenders?

☒ Or did Mom always feel that it was HIS farm?



What if Mom Out Lives Dad ?

- What if none of the children were involved with the farming operation to start with?
- What if none of the children have an interest in returning home to take over the farm operation?

Would Mom rent out the farm and remain living on the home place ?

- Or would Mom sell the farm and move into the local town (or even move out of State) ?



What if Mom Out Lives Dad ?

**What if Mom gets remarried ?
Now what changes?**

What if Mom Out Lives Dad ?

What is NOW the position of the farming son and/or farming daughter if the new step-Dad decides to get involved and he now takes over control?

→ Worse yet, what if Mom only listens to her new husband and start doing exactly what he wants.



What if Mom Out Lives Dad ?

**Have Mom and Dad discussed ANY
of this with each other ???**

**➤ Did they ever share their wishes with
each other ?**



What if Mom Out Lives Dad ?

**Have Mom and Dad discussed ANY
of this with each other ???**

➤ Has anything been put in writing ?

**Or is it just assumed that everything will
eventually be taken care in the exact manner
that the deceased parent wanted ?**



What if Mom Out Lives Dad ?

What if Mom owned the farm to start with ?

Or what if Mom actually wears the 'BOSS Hat' in the family operation?

**➤ Does anything really change now ?
Probably not very much at all !!**

What if Dad Out Lives Mom ?

What if Mom dies unexpectedly and long before Dad is ready to retire from farming?

➤ Does everything still remain exactly the **SAME** in the farming operation as before Mom's death ?

☑ Probably not too many changes in the farm operation itself if Mom should happen to die first and Dad continues farming.

An interesting question to consider:

Is Dad more likely to remarry if Mom should happen to die first ?

Or is Mom more likely to remarry if Dad should happen to die first ?



**“You Can Buy the Family Farm But Just
Remember That I Still Own It”**

The Issue of ‘Who Is Family’?



The Issue of “Who is Family?”

Who are considered the **“real family members”** in the farm family business?

- Are only the **“blood related family members”** the ones that are to be included in financial and business decisions, have management authority, or even the chance for eventual farm ownership?



The Issue of “Who is Family?”

Are the in-laws considered or even treated as “**family**” in the business?

- ◆ Do the in-laws involved in the family farming operation actually have a voice in business matters or even allowed to make their own management decisions?



The Issue of “Who is Family?”

Many farm families adopt the strategy that the less the in-laws know about the farm and the business operation - - the better.

⊗ Thus everything is kept a **BIG SECRET** with the in-laws being excluded.

☹ But this strategy usually backfires.



The Issue of “Who is Family?”

Relationships of trust between family members fail when someone finds out that decisions are being made by others that impacts their well being and future happiness, but they are not allowed to be a part of that decision.

The Issue of “Who is Family?”

Relationships of trust between family members fail when someone finds out that decisions are being made by others that impacts their well being and future happiness, but they are not allowed to be a part of that decision.

✓ **This can lead to suspicions and a lack of trust for other family members in the farm business operation.**



The Issue of “Who is Family?”

What if the farming son was tragically killed in a farming accident? Now the parents find themselves in a farm business partnership with their daughter in-law.

✓ Is she still “part of the family” now?

The Issue of “Who is Family?”

What actually now happens next ?

What if there had not been a relationship of trust and good communications with the farming daughter in-law before?

- **Does this complicate the situation in settling family business matters with her?**
- **Will the parents see their grandchildren again?**



The Issue of “Who is Family?”

Consider pre-nuptial agreements to protect the family farm business.

BUT there are two points of view.

Discuss the reasons why and the purpose.

No last minute pressures.

Quite important for second marriages.

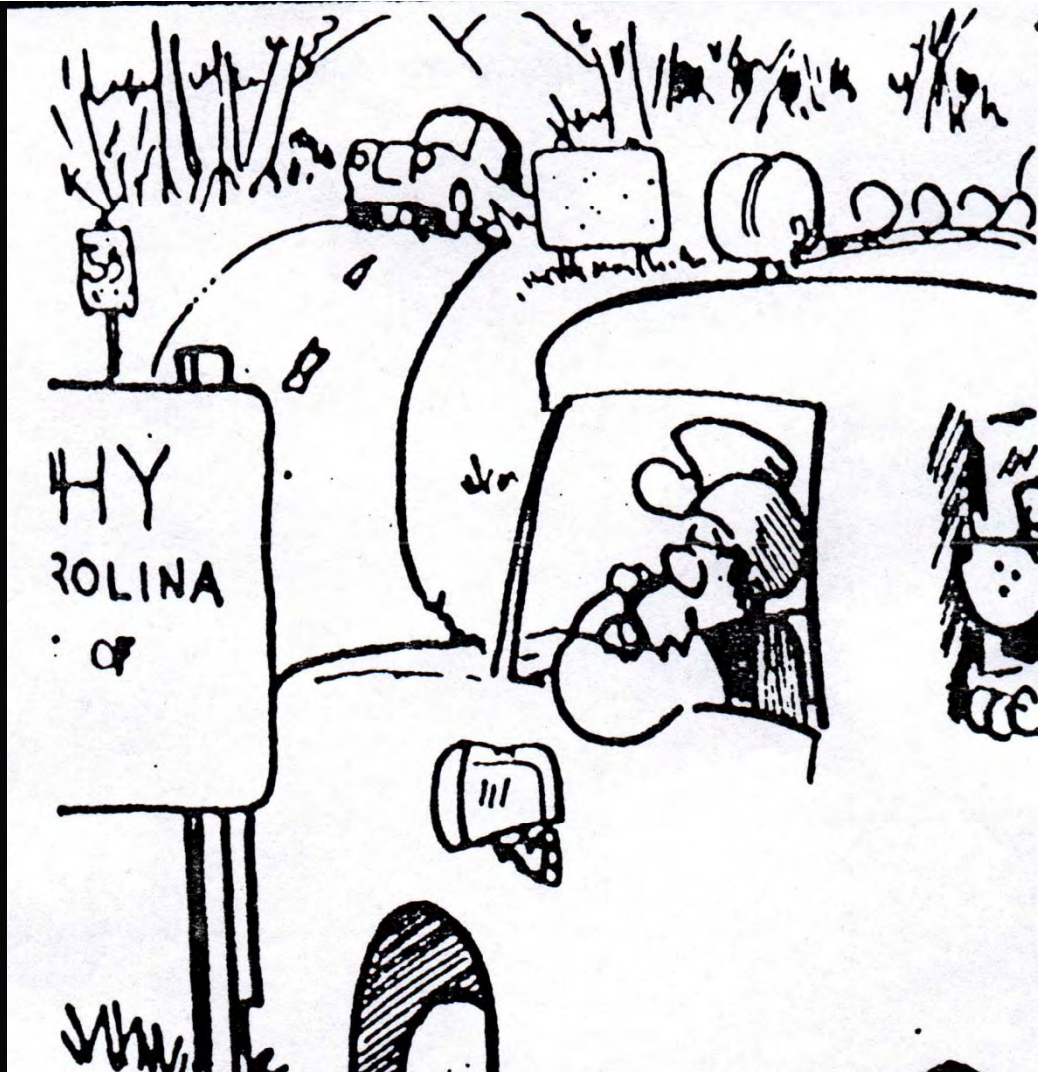
Farm Family Business Ownership Succession

Time for a few farm cartoons!

**You Can Buy the Family Farm But Just
Remember That I Still Own It**

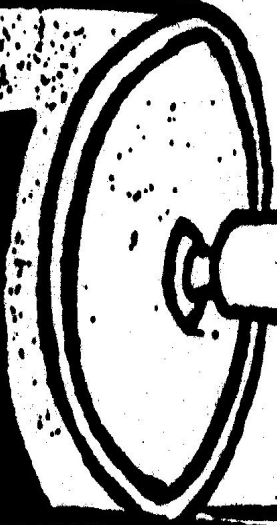


“It looks like rain.”

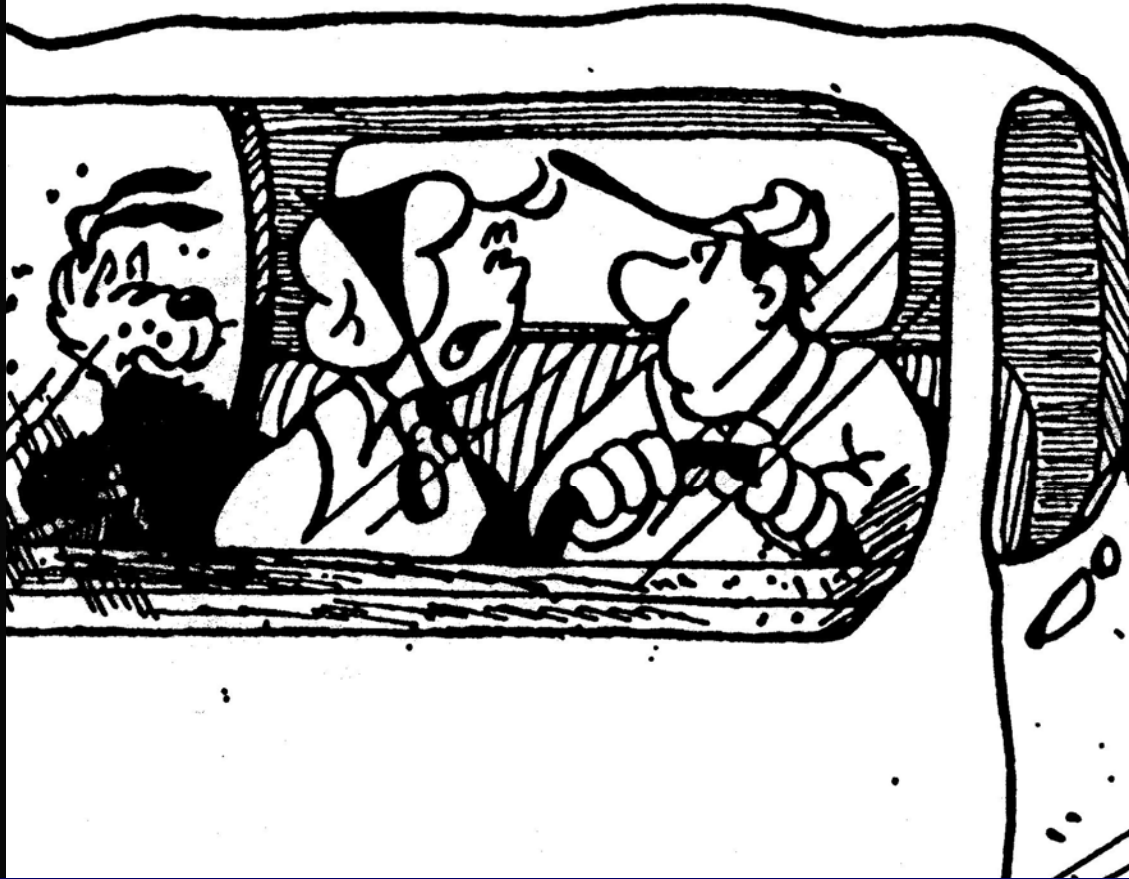


“Must be a brand-new sign – no bullet holes.”

BUG
SPRAY



HELP... HELP...
COME QUICK,
RALPH IS TRYING
TO COMMIT
HERBICIDE!



“He wants you to back up and try for that rabbit again.”



Planning for the Ownership Succession of the Family Farm

What are the Family Issues When Transferring Farm Ownership??



**How Much Did Your Lawyer
Cost Our Family Farm Business?**



**“How Much Did Your Lawyer Cost
Our Family Farm Business?”**

The Issue of Controlling Parents



The Issue of Controlling Parents

Some parents may actually raise their children to be **followers**.

→ Children are often expected to do what some parents always want.

“Work hard, do exactly what you are told, but don’t ask any questions” is often the standard rule in some families.

The Issue of Controlling Parents

Now parents cannot understand why their adult children have no drive or ambition. Or why they lack being creative or having new ideas.

→ These adult children may even lack having personal goals or a positive direction in their lives.



The Issue of Controlling Parents

- What is the **behavior expected** by the parents for their adult children working in the farming business?
- Do the parents want these children to be just puppets (i.e. do what we want)?
- Or independent thinking adults with their own ideas and initiative?



The Issue of Controlling Parents

- ❖ Is it the **parent's dream** for the children to return back home to the family farm?
- ❖ Or is it the **children's dream** to farm with Mom and Dad?
- Or is it **Everyone's Dream** as a family to farm together ?



The Issue of Controlling Parents

**An important point to remember:
Children should never feel obligated to
return back home to the family farm
after college when their career
interests or dreams lie elsewhere.**



The Issue of Controlling Parents

Another side of this issue is that parents want to help their adult children to have a better living standard (i.e. help them buy their first home or a new car or a chance for a summer vacation).



The Issue of Controlling Parents

➔ But this is often done with certain “Strings Attached” by the parents.

➤ Mom and/or Dad often expect something in return for a certain favor or gift that they have provided to their children (i.e. which they quickly resent).



**How Much Did Your Lawyer
Cost Our Family Farm Business?**



**How Much Did Your Lawyer Cost Our
Family Farm Business?**

Transfer of Ownership Issue



Who will end up owning or taking over the family farm business when the parents retire?



Transfer of Farm Ownership Issue

Who will end up owning or taking over the family farm business when the parents retire?

Or will the parents still retain ownership and total control even after retirement while the farming children keep doing all the work?



Transfer of Farm Ownership Issue

Which children in the family will have the opportunity to buy in and gain actual ownership of the family farm?

➔ What share of the farming operation can they purchase if the parents decide to start selling and/or gifting now ?



Transfer of Farm Ownership Issue

When will this change of ownership actually happen?

→ Or will the parents still retain total ownership as well as control until their eventual death?



Transfer of Farm Ownership Issue

- Can the **in-laws** in the family be **actual owners** of this family farm ?
- Will the daughter-in-law's name be listed on the farm's deed ?
- If the daughter returns back home, could the son-in-law buy the farm and change the family name on the farm's deed ? Or even change the name on the mail box?



Transfer of Farm Ownership

- What do the **children who remained on the farm expect** from the business after gaining ownership?
- What do the **parents expect** from the farm business when transferring ownership?



Transfer of Farm Ownership

What changes can now be expected when this ownership transfer actually happens?



Transfer of Farm Ownership

What entitlements do the farm children actually have in the farm business?

→ Will these children be rewarded for their “sweat equity” that they have invested in the farm and to the parents’ estate?



Transfer of Farm Ownership

Have PREVIOUS PROMISES by the parents already been made to any of the children?

- **Will these promises be honored by the parents ? Or have the parents already changed their mind without telling anyone?**
- **Does everything still remain a BIG SECRET by the parents!**



**How Much Did Your Lawyer
Cost Our Family Farm
Business?**



**How Much Did Your Lawyer Cost Our
Family Farm Business?**

**The Issue of the Non-Farming
Children**



The Issue of the Non-Farming Children

As Mom and Dad work through a succession plan to pass the ownership of their farm onto the adult children that may be farming with them, **the most sensitive issue of the NON-FARMING CHILDREN** comes into play.



The Issue of the Non-Farming Children

Are the parents willing to treat **ALL** of their children ***FAIRLY and EQUITABLY*** in their estate plan?

◆How will this be carried out?

◆And when will this be carried out?



The Issue of the Non-Farming Children

This is a rather delicate issue to discuss within the family (especially with parents) because often times Mom and/or Dad have already identified “certain favorites” among their children.



The Issue of the Non-Farming Children

To avoid these potential problems of jealousy among the children and the grudges that may evolve over time, it is very important that parents block out their personal feelings of favoritism and devise an estate plan that allows for the succession of the farm to the next generation in a fair and equitable manner.



The Issue of the Non-Farming Children

This will require much thought, many hours of discussion by the parents and children, and even seeking out the needed help of a professional consultant.



The Issue of the Non-Farming Children

Too many times these decisions are made under **time pressure** (i.e. we have to do something now) or under **emotional stress** (i.e. just after the death of a parent).



The Issue of the Non-Farming Children

The key is to plan ahead and start these discussions early in the process.

It is the responsibility of the parents to initiate this estate planning process. Mom and Dad have to take action and get this process started now.



The Issue of the Non-Farming Children

Farm family operations are the **MOST** difficult to handle in terms of fairness among all the children.

As the children were being raised, some children worked harder than others and may have actually contributed more to the parents' farming operation and their estate.



The Issue of the Non-Farming Children

- Also consider that some children care more about the farm and for the well being of the parents in their later years of life.
- While some children could care less about the farm and are only interested in how **MUCH MONEY** they may receive from the estate and when will they get it.



The Issue of the Non-Farming Children

ALL the children (both farming and non-farming as well as sons and daughters) should **ALL SHARE** in the parents' estate **BUT** in a fair and equitable division.

The Issue of the Non-Farming Children

The parents must sit down with all their children together at the same time and talk through these family issues.

- ✓ **Then most importantly, allow all the children a chance to express their feelings and reactions in an open and honest family discussion.**



The Issue of the Non-Farming Children

**An important point to remember:
Mom and Dad must stand together on
these issues being discussed. They
must work through this until they both
agree on a plan or a strategy to carry
out their wishes for their estate.**



The Issue of the Non-Farming Children

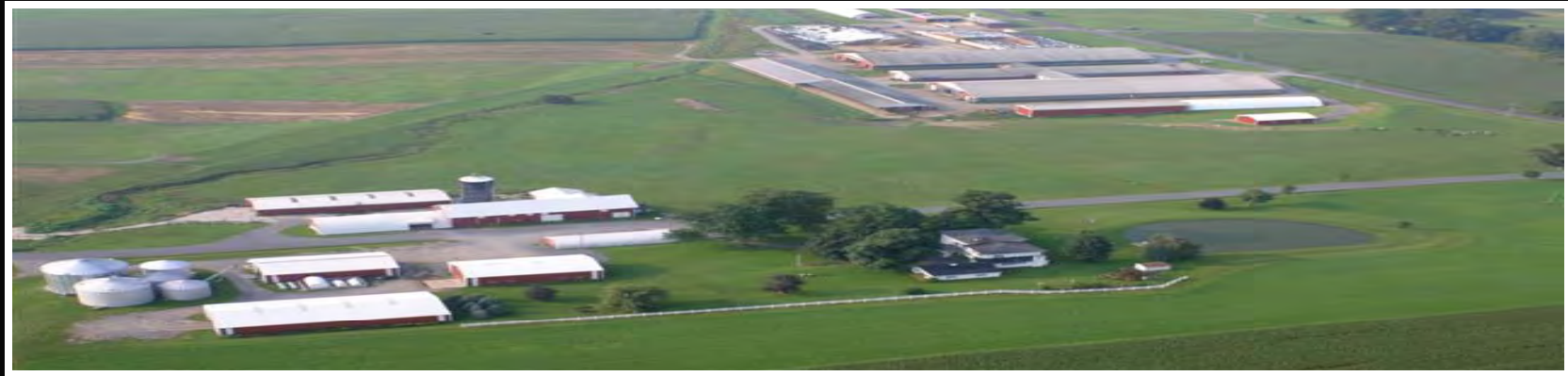
The son or daughter that returns back to the home farm and has sacrificed all these years in helping the parents to expand the farming operation has often made a major contribution in building the net worth of the parents' estate.

Again this is often referred to as "sweat equity".



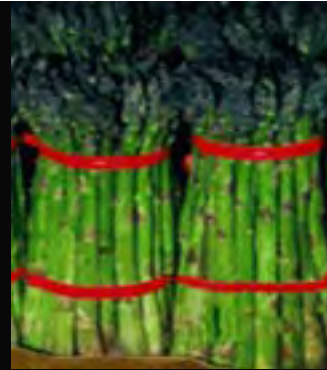
The Issue of the Non-Farming Children

They have made a commitment to the farm and a major contribution to the parent's estate that the other children **have NOT**.



The Issue of the Non-Farming Children

This contribution of SWEAT EQUITY by a farming son or a farming daughter must be to be recognized by the parents and then, most importantly, be rewarded.



The Issue of the Non-Farming Children

The son or daughter who made this important contribution of “**sweat equity**” may get the first chance to buy the farm or may end up with a larger share of the final estate after both parents have passed away.



The Issue of the Non-Farming Children

- The other **non-farming children must be made to realize** what their brother or sister has actually contributed over time to the farming operation and to the parents' estate.
- It is the **duty of the parents** to tell the non-farming children this very fact and make them understand that what they some day will inherit their brother/sister helped make possible.



The Issue of the Non-Farming Children

Children should **RESPECT**
the decisions made by their
parents.



The Issue of the Non-Farming Children

There has been a recent change in attitudes by the non-farming children.



The Issue of the Non-Farming Children

Some parents try to avoid this very issue.

There is TOO MUCH emotion involved.

“This topic is not open for discussion with us!”

- **Other parents may even ignore that these family issues even exist and just assume that the children will eventually work it out later by themselves.**



The Issue of the Non-Farming Children

BUT avoiding this discussion and the failure to resolve these issues *NOW* only results in a lot of bitterness and feuding among the children which can result in an actual family split between these siblings that can last for generations to come in the future.



The Issue of the Non-Farming Children

One final point to consider:

No Surprises in the family will!



My advice to parents:

**Planning for Farm Family
Business Ownership Succession**

My advice to farm parents:

**So why not just spend some of
your estate and enjoy your
remaining years of life together?**

**What have they got to lose? It's their
money to begin with - - - right??**

FACT or FICTION ?

You are not going to be taking your estate and money with you when you die. There are no banks or ATM's in heaven.

FACT or FICTION ?

An expensive funeral and a high priced casket (although quite impressive) is a really poor way to spend your estate and offers very little personal enjoyment.

FACT or FICTION ?

If the parents don't spend all or part of their estate, their children will quickly find a way to spend the money for them.

FACT or FICTION ?

If one parent dies first and the surviving parent remarries, their new partner will be more than happy to spend the money and/or family estate.

FACT or FICTION ?

The children will always carry out the parents' intended wishes when settling their parents' estate; thus there is no need for the family to put anything in writing.

FACT or FICTION ?

Your surviving spouse will always carry out your intended wishes when settling your estate; thus again there is no need to put anything in writing.



Afternoon Breakout Session

The Issue of A Fair Selling Price



Afternoon Breakout Session

What If the “What If” Actually Happens?

**Thanks for sharing your
attention with me this morning.**

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